

104TH CONGRESS
2D SESSION

H. R. 3842

To amend the Internal Revenue Code of 1986 to provide an exemption from income taxation for qualified State tuition programs.

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 1996

Mrs. THURMAN (for herself, Mr. BILIRAKIS, Ms. BROWN of Florida, Mr. CANADY of Florida, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. GIBBONS, Mr. FOLEY, Mr. HASTINGS of Florida, Mrs. MEEK of Florida, Mr. MILLER of Florida, Mr. PETERSON of Florida, Mr. SCARBOROUGH, Mr. SHAW, Mr. MICA, Mr. MCCOLLUM, Mr. STEARNS, Ms. ROS-LEHTINEN, Mr. BACHUS, Mr. BEVILL, Mr. BONIOR, Mr. BORSKI, Mr. BROWDER, Mr. CALLAHAN, Mr. CLEMENT, Miss COLLINS of Michigan, Mr. COMBEST, Mr. CONYERS, Mr. CRAMER, Mr. DOOLEY of California, Mr. DOYLE, Mr. ENGLISH of Pennsylvania, Mr. EVERETT, Mr. FAZIO of California, Mr. FRANK of Massachusetts, Mr. FROST, Ms. HARMAN, Mr. HOLDEN, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mr. JOHNSTON of Florida, Mr. KANJORSKI, Ms. KAPTUR, Mr. KLINK, Mr. MASCARA, Mr. MEEHAN, Mr. MOAKLEY, Mr. MORAN, Mr. MURTHA, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. PAYNE of Virginia, Ms. RIVERS, Mr. SMITH of Michigan, Mr. STENHOLM, Mr. STUDDS, Mr. STUPAK, and Mr. TANNER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide an exemption from income taxation for qualified State tuition programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. QUALIFIED STATE TUITION PROGRAMS.**

2 (a) IN GENERAL.—Subchapter F of chapter 1 of the
3 Internal Revenue Code of 1986 (relating to exempt organi-
4 zations) is amended by adding at the end the following
5 new part:

6 **“PART VIII—QUALIFIED STATE TUITION**
7 **PROGRAMS**

“Sec. 529. Qualified State tuition programs.

8 **“SEC. 529. QUALIFIED STATE TUITION PROGRAMS.**

9 “(a) GENERAL RULE.—A qualified State tuition pro-
10 gram shall be exempt from taxation under this subtitle.
11 Notwithstanding the preceding sentence, such program
12 shall be subject to the taxes imposed by section 511 (relat-
13 ing to imposition of tax on unrelated business income of
14 charitable organizations).

15 “(b) QUALIFIED STATE TUITION PROGRAM.—For
16 purposes of this section—

17 “(1) IN GENERAL.—The term ‘qualified State
18 tuition program’ means a program established and
19 maintained by a State or agency or instrumentality
20 thereof—

21 “(A) under which a person—

22 “(i) may purchase tuition credits or
23 certificates on behalf of a designated bene-
24 ficiary which entitle the beneficiary to the

1 waiver or payment of qualified higher edu-
2 cation expenses of the beneficiary, or

3 “(ii) may make contributions to an
4 account which is established for the sole
5 purpose of meeting the qualified higher
6 education expenses of the designated bene-
7 ficiary of the account, and

8 “(B) which meets the other requirements
9 of this subsection.

10 “(2) CASH CONTRIBUTIONS.—A program shall
11 not be treated as a qualified State tuition program
12 unless it provides that purchases or contributions
13 may only be made in cash.

14 “(3) REFUNDS.—A program shall not be treat-
15 ed as a qualified State tuition program unless it im-
16 poses a more than de minimis penalty on any refund
17 of earnings from the account which are not—

18 “(A) used for qualified higher education
19 expenses of the designated beneficiary,

20 “(B) made on account of the death or dis-
21 ability of the designated beneficiary, or

22 “(C) made on account of a scholarship re-
23 ceived by the designated beneficiary to the ex-
24 tent the amount of the refund does not exceed

1 the amount of the scholarship used for qualified
2 higher education expenses.

3 “(4) SEPARATE ACCOUNTING.—A program shall
4 not be treated as a qualified State tuition program
5 unless it provides separate accounting for each des-
6 ignated beneficiary.

7 “(5) NO INVESTMENT DIRECTION.—A program
8 shall not be treated as a qualified State tuition pro-
9 gram unless it provides that any contributor to, or
10 designated beneficiary under, such program may not
11 direct the investment of any contributions to the
12 program (or any earnings thereon).

13 “(6) NO PLEDGING OF INTEREST AS SECUR-
14 ITY.—A program shall not be treated as a qualified
15 State tuition program if it allows any interest in the
16 program or any portion thereof to be used as secu-
17 rity for a loan.

18 “(c) TAX TREATMENT OF DESIGNATED BENE-
19 FIICIARIES AND CONTRIBUTORS.—

20 “(1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, no amount shall be includ-
22 ible in gross income of—

23 “(A) a designated beneficiary under a
24 qualified State tuition program, or

1 “(B) a contributor to such program on be-
2 half of a designated beneficiary,
3 with respect to any distribution from, or earnings
4 under, such program.

5 “(2) DISTRIBUTIONS.—

6 “(A) IN GENERAL.—Any distribution
7 under a qualified State tuition program shall be
8 includible in the gross income of the distributee
9 in the same manner as provided under section
10 72 to the extent not excluded from gross in-
11 come under any other provision of this chapter.

12 “(B) IN-KIND DISTRIBUTIONS.—The fur-
13 nishing of education to a designated beneficiary
14 under a qualified State tuition program shall be
15 treated as a distribution to the beneficiary.

16 “(C) CHANGE IN BENEFICIARIES.—

17 “(i) ROLLOVERS.—Subparagraph (A)
18 shall not apply to that portion of any dis-
19 tribution which, within 60 days of such
20 distribution, is transferred to the credit of
21 another designated beneficiary under a
22 qualified State tuition program who is a
23 member of the same family as the des-
24 ignated beneficiary with respect to which
25 the distribution was made.

1 “(ii) CHANGE IN DESIGNATED BENE-
2 FICIARIES.—Any change in the designated
3 beneficiary of an interest in a qualified
4 State tuition program shall not be treated
5 as a distribution for purposes of subpara-
6 graph (A) if the new beneficiary is a mem-
7 ber of the same family as the old bene-
8 ficiary.

9 “(D) OPERATING RULES.—For purposes of
10 applying section 72—

11 “(i) all qualified State tuition pro-
12 grams of which an individual is a des-
13 ignated beneficiary shall be treated as one
14 program,

15 “(ii) all distributions during a taxable
16 year shall be treated as one distribution,
17 and

18 “(iii) the value of the contract, income
19 on the contract, and investment in the con-
20 tract shall be computed as of the close of
21 the calendar year in which the taxable year
22 begins.

23 “(3) GIFT TAX TREATMENT.—Any contribution
24 on behalf of a designated beneficiary to a qualified

1 State tuition program shall be treated as a qualified
2 transfer for purposes of section 2503(e).

3 “(d) REPORTING REQUIREMENTS.—

4 “(1) IN GENERAL.—If—

5 “(A) a designated beneficiary is furnished
6 education under a qualified State tuition pro-
7 gram during any calendar year, or

8 “(B) there is a distribution to any individ-
9 ual with respect to an interest in such program
10 during any calendar year,

11 each officer or employee having control of the quali-
12 fied State tuition program or their designee shall
13 make such reports as the Secretary may require re-
14 garding such education or distribution to the Sec-
15 retary and to the designated beneficiary or the indi-
16 vidual to whom the distribution was made. Any such
17 report shall include such information as the Sec-
18 retary may prescribe.

19 “(2) TIMING OF REPORTS.—Any report re-
20 quired by this subsection—

21 “(A) shall be filed at such time and in
22 such matter as the Secretary prescribes, and

23 “(B) shall be furnished to individuals not
24 later than January 31 of the calendar year fol-

1 lowing the calendar year to which such report
2 relates.

3 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—

4 For purposes of this section—

5 “(1) DESIGNATED BENEFICIARY.—The term
6 ‘designated beneficiary’ means—

7 “(A) the individual designated at the com-
8 mencement of participation in the qualified
9 State tuition program as the beneficiary of
10 amounts paid (or to be paid) to the program,

11 “(B) in the case of a change in bene-
12 ficiaries described in subsection (c)(2)(C)(ii),
13 the individual who is the new beneficiary, and

14 “(C) in the case of an interest in a quali-
15 fied State tuition program purchased by a State
16 or local government or an organization de-
17 scribed in section 501(c)(3) and exempt from
18 taxation under section 501(a) as part of a
19 scholarship program operated by such govern-
20 ment or organization, the individual receiving
21 such interest as a scholarship.

22 “(2) MEMBER OF FAMILY.—The term ‘member
23 of family’ has the same meaning given such term as
24 section 2032A(e)(2).

1 “(3) QUALIFIED HIGHER EDUCATION EX-
2 PENSES.—The term ‘qualified higher education ex-
3 penses’ means tuition, fees, books, supplies, and
4 equipment required for the enrollment or attendance
5 of a designated beneficiary at an eligible education
6 institution (as defined in section 135(c)(3)).

7 “(4) APPLICATION OF SECTION 514.—An inter-
8 est in a qualified State tuition program shall not be
9 treated as debt for purposes of section 514.”.

10 (b) EFFECTIVE DATES.—

11 (1) IN GENERAL.—The amendments made by
12 this section shall apply to taxable years ending after
13 the date of the enactment of this Act.

14 (2) TRANSITION RULE.—If—

15 (A) a State or agency or instrumentality
16 thereof maintains, on the date of the enactment
17 of this Act, a program under which persons
18 may purchase tuition credits or certificates on
19 behalf of, or make contributions for education
20 expenses of, a designated beneficiary, and

21 (B) such program meets the requirements
22 of a qualified State tuition program before the
23 later of—

24 (i) the date which is 1 year after such
25 date of enactment, or

1 (ii) the first day of the first calendar
2 quarter after the close of the first regular
3 session of the State legislature that begins
4 after such date of enactment,
5 the amendments made by this section shall
6 apply to contributions (and earnings allocable
7 thereto) made before the later of such dates
8 without regard to whether any requirements of
9 such amendments are met with respect to such
10 contributions and earnings. For purposes of
11 subparagraph (B)(ii), if a State has a 2-year
12 legislative session, each year of such session
13 shall be deemed to be a separate regular session
14 of the State legislature.

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